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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,610	10/25/2001	Franz Pruckner	2001-1092A	4718
513	7590	07/09/2004	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			MARCANTONI, PAUL D	
			ART UNIT	PAPER NUMBER
			1755	

DATE MAILED: 07/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/890,610

Applicant(s)

PRUCKNER, FRANZ

Examiner

Paul Marcantoni

Art Unit

1755

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See attached sheet

  
Paul Marcantoni  
Primary Examiner  
Art Unit: 1755

Continuation of 2. NOTE: There is also no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented..

Applicant's after final amendment filed 6/18/04 was not considered because 1) there is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented and it raises new issues requiring further consideration and search.

New Issues:

For example, the applicants add "gelling agent" to new claim 13 and then add a claim to define the gelling agent as sodium aluminate or calcium hydroxide (new claim 14). They also remove "impregnation agent" completely from the claims which is a new issue.

Also, the applicants changed their originally claimed water insoluble inorganic silicate to a curable inorganic silicate "binder". Applicants completely remove "water insoluble" from the claim.

These are representative of the new issues above and thus this after final will not be entered. The applicants' finally rejected claims 9-12 do remain rejected.

Inquiries may be made to Paul Marcantoni at 571-272-1373.



**PAUL MARCANTONI**  
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